



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: JANUARY 27, 2021

TO: PLANNING COMMISSION

FROM: DAVID M. REYES, DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: ZONING CODE AMENDMENTS TO UPDATE THE AFFORDABLE HOUSING CONCESSION MENU FOR DENSITY BONUS PROJECTS

RECOMMENDATION:

It is recommended that the Planning Commission:

1. **Find** that the Zoning Code Amendments are exempt from the California Environmental Quality Act (CEQA);
2. **Adopt** the Findings for Zoning Code Amendments in Attachment A; and
3. **Recommend** that the City Council approve the Zoning Code Amendments as outlined in this report.

EXECUTIVE SUMMARY:

In August 2019, the City Council adopted an ordinance to amend the City's Inclusionary Housing Ordinance ("IHO") and create an Affordable Housing Concession Menu ("Menu"). These amendments resulted in increasing the inclusionary requirement from 15 to 20%, eliminating trade-downs, and requiring very low income units. The Menu established a set of concessions that would be available to projects utilizing State Density Bonus without the requirement to obtain an Affordable Housing Concession Permit (AHCP), provided that the project complied with the inclusionary requirements by providing the affordable units on-site. Upon approval of the ordinance, the City Council also directed Staff to return after one year to provide an update on the ordinance and make further recommendations as appropriate in order to achieve the combined goals of increased affordable housing production and preservation of an appropriate scale of development throughout the City. This report provides an overview of implementation of these measures, and provides recommendations for amendments to the Menu in order to clarify intent and provide more certainty for developers and neighborhoods alike. A study session on this topic was conducted with the Commission on August 12, 2020.

BACKGROUND:

Zoning Code Amendments

In 2019, the City Council expressed concern about the increasing use of concessions and incentives by developers under State Density Bonus Law (SDBL) to exceed the established height, scale, and massing regulations that had been codified in the City's Zoning Code. While SDBL requires developers to provide a certain percentage of affordable units in their projects in order to qualify for concessions, the amount of units required was seen as disproportionate to the impact of these concessions, especially since the City's existing IHO already required affordable units to be included with new multi-family residential developments. As a result, the City Council directed Staff to make recommendations that would achieve the dual goals of increasing affordable housing production while encouraging new development projects to be designed at a scale and mass that better fits within the expected character of various neighborhoods.

Amendments to Inclusionary Housing Requirements

After extensive community outreach and market/feasibility analysis, Staff recommended, and the City Council approved, various amendments to the IHO in August 2019. These included an increase in the overall inclusionary requirement from 15% to 20%. The 20% requirement was further broken down to require minimum percentages of affordability levels for rental projects, including 5% Very Low Income, 5% Low Income, and 10% Moderate Income.

In addition to increasing the percentage and requiring deeper levels of affordability, the amendments also included the elimination of "trade-down" provisions, which previously allowed developers to provide a lesser overall number of affordable units, in exchange for providing units with deeper affordability. This practice, combined with SDBL, typically resulted in a lesser number of affordable units while still allowing use of multiple concessions. Finally, amendments were made to the IHO in-lieu fee structure, resulting in increased fees for nearly all types of projects throughout the City that choose not to build the required affordable units on-site but pay a fee instead.

While these amendments were approved in August 2019, the changes to the inclusionary housing percentage, affordability levels, and trade-down provisions became effective on December 7, 2019. As is the case with any zoning code amendment, development projects that did not have an effective entitlement before that date, such as approval of an Affordable Housing Concession Permit or Concept Design Review, would be subject to the new IHO provisions. The increase to the inclusionary housing in-lieu fees became effective six months after the City Council's approval. This six-month delay was approved by the City Council in order to allow projects that had invested substantially in the building permit process to proceed with the existing fees. However, any project that had not pulled building permits by February 19, 2020 would be subject to the increased in-lieu fees.

Affordable Housing Concession Menu

While the increased inclusionary housing requirements satisfied one aspect of the City Council's direction, which was to increase affordable housing production, the creation of an Affordable Housing Concession Menu was intended to address the other major concern – that new development projects utilizing SDBL were out of scale with the intended character of their neighborhoods. The primary way developers would be able to build such projects is by using the concessions allowed under SDBL in exchange for providing affordable units. Under SDBL, a developer could seek up to three concessions depending on the number and level of affordable units included in the project. These concessions could result in relief from height limits, floor area

ratio standards, setback requirements, or any other development standard, provided that the concession resulted in an identifiable cost savings to the project to offset the inclusion of affordable units. Furthermore, the scope of each concession, such as the number of additional stories or amount of additional floor area, is theoretically unlimited under SDBL, as long as the required finding could be made. One unique aspect of SDBL with respect to the required finding for a concession is that under the law, approval of a concession is implied unless the City can make a finding in the negative. In other words, in order to *deny* a concession, the review authority must make a finding that the concessions *do not* result in cost savings. The process in the City of Pasadena for considering this finding is the Affordable Housing Concession Permit (AHCP), which is a discretionary process that is subject to CEQA, public hearings, and appeals. Some AHCP applications have taken years to approve, and the process can add substantial costs to projects due to longer carrying costs and risks of litigation.

Under State law, a City may not prohibit a developer from requesting any concessions permitted under SDBL. Staff's approach was to create an alternative option for developers that would act as an incentive to choose from a pre-determined set of concessions that are more limited in scope and intensity, in exchange for avoiding the lengthy, costly, and at times unpredictable process of obtaining an AHCP. Thus, the intent was to encourage developers to lessen the impact of their projects, and create certainty by not requiring an AHCP for projects selecting concessions from the Menu, thereby offsetting costs. To achieve this, a Menu of concessions was developed, from which a developer could choose up to two concessions to apply to their project, provided that they complied with the new IHO by building affordable units on-site. Taking this approach would exempt the project from requiring an AHCP, thereby saving the project up to 24 months of time. These projects would still be subject to the Design Review process and CEQA review.

When developing the Menu, Staff analyzed all past AHCP applications to determine what types of zoning relief and how much of it is typically needed to make a density bonus project feasible. Staff also worked with an outside economic consultant, AECOM, to perform a market and feasibility analysis to more quantitatively determine how much additional incentive is necessary to make projects financially feasible with the new inclusionary housing requirements, while also taking into account the cost savings of avoiding the AHCP process. These analyses resulted in the set of five concessions that were ultimately adopted by the City Council (Attachment B).

During the City Council's deliberations on the Menu, several Councilmembers raised the question of whether the concessions offered on the Menu were enough of an incentive for a developer to choose them over the more generous SDBL option, regardless of the additional time and cost associated with obtaining an AHCP. Thus, upon approving the ordinance, the Council directed Staff to monitor the implementation of the Menu and return after one year with an assessment and recommendations on whether additional incentives are necessary. Additionally, some Councilmembers asked Staff to further study whether the Menu could be used as a tool to encourage other types of housing that can benefit various groups within the City, such as larger units geared toward families or micro-units that offer more affordable housing for students and young professionals.

Changes to State Density Bonus Law

Assembly Bill 2345 was signed into law on September 28, 2020. This bill, authored by Assembly Member Lorena Gonzales of San Diego, was one of the few housing production bills that was successfully passed by the State Legislature during the 2020 session. The bill is intended to increase the incentives for developers to utilize SDBL by granting a greater percentage of density bonus for each level of affordability provided, and to lower the threshold for projects to qualify for concessions. Previous law allowed incrementally increasing density bonus up to a maximum of 35% in exchange for a percentage of affordable units, varying based on the level of affordability. To qualify for the maximum 35% density bonus under previous law, a project would need to set aside 40% of total units as Moderate-Income, 20% as Low Income, or 11% as Very Low Income. AB 2345 maintains these ratios, but increases the maximum density bonus to 50%, which is granted in exchange for 44% Moderate-Income, 24% Low Income, or 15% Very Low Income units.

AB 2345 also revises the minimum amount of affordable units needed to qualify for concessions under SDBL. Previously, a project qualified for two concessions by setting aside 20% of total units for Low or Very Low Income households, and three concessions by setting aside 30%. AB 2345 has lowered those thresholds to 17% and 24%, respectively.

The bill also makes other various changes to SDBL, such as reducing the maximum parking requirement for density bonus projects, and making clarifications on implementing density bonus for 100% affordable projects. However, the changes most likely to affect Pasadena's IHO and Menu are those that provide greater density bonus and lower the threshold for concessions, as these would compete with the attractiveness of the local Menu of concessions, potentially making it less likely that a developer would choose to use the Menu rather than apply for an AHCP.

ANALYSIS:

Effects of Recent Code Amendments

Inclusionary Housing Units

When the increase in the inclusionary housing requirement became effective in December 2019, there were seven development projects in the entitlement pipeline that became affected by the increase. This increase resulted in at least 17 net additional affordable units being required from these seven projects (See Table 1). Furthermore, the elimination of trade downs further increases the net gain of affordable units, assuming at least some projects would have otherwise taken advantage of trade downs.

In evaluating the efficacy of the updated inclusionary requirements, it is important to note that so far all of the projects that were in the pipeline and were required to increase their inclusionary set-asides are still proceeding through the development process. In other words, the increase thus far has not discouraged housing projects from being built. However, it will be important to continue monitoring these projects through the approval process until building permits are issued in order to determine conclusively if that is the case.

Table 1. Multi-Family Development Projects in Pipeline When IHO Amendments Became Effective

Project Address	Base Units*	15% Requirement**	20% Requirement	Net Increase**
1307 Lincoln	60	9 (6)	12	3 (6)
810 Marengo	21	3 (2)	4	1 (2)
270 N. Los Robles	78	12 (7)	16	4 (9)
164 Chestnut	20	3 (2)	4	1 (2)
256 N. Michigan	25	4 (3)	5	1 (2)
141 S. Lake	71	11 (7)	15	4 (8)
540 S. Lake	61	9 (6)	12	3 (6)
TOTALS:	336	51 (33)	68	17 (35)

* Info as of January 2021

**Numbers in parentheses represent scenario if all units traded down to Very Low Income

It is also important to note that new projects submitted after the increased inclusionary requirement became effective will now be responsible for providing more affordable units than they otherwise would have under the prior requirements. Since the increase became effective, and as of the writing of this report, four new multi-family residential projects have been proposed that will be subject to a 20% inclusionary requirement. This will result in somewhere between 23 and 51 net additional affordable units from these four projects as compared to what they would otherwise have provided under the prior inclusionary ordinance. The effects of the IHO amendments is illustrated in Table 2 for projects submitted after they became effective.

Table 2. Multi-Family Development Projects Submitted After IHO Amendments Became Effective

Project Address	Base Units*	15% Requirement**	20% Requirement	Net Increase**
444 N. Fair Oaks	153	23 (14)	31	8 (17)
350 Cordova	62	9 (6)	12	3 (6)
85 W. Green	17	3 (2)	4	1 (2)
452 N. Los Robles	227	34 (19)	45	11 (26)
TOTALS:	459	69 (41)	47	23 (51)

* Info as of January 2021

**Numbers in parentheses represent scenario if all units traded down to Very Low Income

In addition to the increase in total affordable units, the updated inclusionary requirement also includes a mandatory set-aside for Very Low Income units, whereas the prior requirement only incentivized Very Low Income units with trade-downs. Projects utilizing trade-downs under previous inclusionary housing rules would have also provided a lesser total number of affordable units. While each project may vary in its allocation of units by income category, it can be concluded that the updated requirement will result in more total affordable units with a wider distribution of

income categories.

Density Bonus and Concessions

Between December 2019, when the Menu became effective, and the writing of this report, there have been no new AHCP applications submitted to the Planning Department. During this period, one project that was in the pipeline as an AHCP application has converted to using the Menu rather than utilizing SDBL. This is a 181-unit Single-Room Occupancy project located at 274-282 N .Oakland Avenue, and is seeking to use the FAR concession on the Menu to obtain an FAR of 2.62, a net increase of 0.37 beyond the 2.25 that is otherwise allowed under the Zoning Code. There was also concern that making the Menu a viable option would incentivize projects that originally were not seeking any concessions at all, to opt into the Menu and increase the size and scale of their projects. During this time period, there have been no such conversions of non-concession projects in the pipeline. Finally, there have been five new applications filed using the Menu during this time period. These projects, and the concessions they are seeking, are shown in the table below:

Table 3. New Applications Requesting On-Menu Concessions

Project Address	Total Units	Density Bonus Units	Affordable Units	Menu Concessions
164 Chestnut	24	4	4	- Parking Reduction (24%)
150 S. Oak Knoll	19	5	2	- FAR Increase (+0.47) - Side Setback Reduction (50%)
139 S. Oak Knoll	17	5	2	- FAR Increase (+0.48) - Side Setback Reduction (50%)
350 Cordova	84	22	12	- Height Increase (12' over 42% of footprint)
85 W. Green	18	1	4	- FAR Increase (+0.5) - Loading Exemption

The results after one year of implementation of the Menu indicate that it is somewhat attractive to developers, often depending on the particular site conditions and whether the menu options fit within the needs of the project design in order to make it feasible. While it is noteworthy that no new AHCP applications were submitted during the first year of the Menu’s implementation, it cannot yet be concluded that this is due to the usability and attractiveness of the Menu. More time will be necessary in order to determine the underlying reasons for the slowing of AHCP applications, which are likely driven more by land and development costs, housing demand, and broader economic influences such as the COVID-19 pandemic.

Incentivizing Certain Project Types

Encouraging More Affordable Family Units

During the City Council’s discussion of the IHO amendments, some Councilmembers suggested that the IHO or Menu could be crafted to incentivize or require the creation of more affordable, family-sized units, such as those with at least three bedrooms. There are two potential approaches to achieve this goal. The first approach could be to simply set a minimum requirement for all projects to set aside a certain number or percentage of affordable units. On the other hand, family units could be incentivized rather than mandated by allowing the use of more than two

concessions from the Menu, or increase the concessions themselves, if a project includes a certain number of three-bedroom or larger units at specified income levels.

While these are both potentially viable approaches, further financial and market analysis would be necessary to determine the actual demand for larger units, as well as how much additional incentive would be necessary to offset the costs of setting aside larger units as affordable. It is also unknown how much the recent changes to the IHO have changed the market for housing development in Pasadena, and whether property values have been affected to the point where further inclusionary requirements cannot be supported without restricting housing production overall. There is further uncertainty in the attractiveness of the Menu due to recent changes in SDBL granting more generous density bonuses, as well as potential changes in the housing market resulting from the COVID-19 pandemic. For these reasons, Staff recommends continued monitoring of the effects of the recent amendments and State legislation on local housing production, and the preparation of updated financial and market analysis prior to making further changes to the IHO and Menu.

Higher Inclusionary Standards for SRO Projects

During the City Council's discussion of the IHO amendments, there were questions about whether Single Room Occupancy (SRO) projects should be required to provide a higher percentage of affordable units under the IHO, due to the more flexible nature of the development standards that allow a higher number of total units in those projects. Staff has studied this issue, and noted that nearly all SRO projects that have been built in the City already consist of mostly affordable units. This is either because those projects are already 100% income-restricted affordable, such as the YMCA permanent supportive housing project. Those SRO projects that are not formally income-restricted are already more affordable than standard studio or one-bedroom units due to their smaller size. Finally, similar to the issue of family sized units, the recent changes to the IHO and Menu, as well as new State legislation affecting SDBL, warrant further monitoring and data collection prior to concluding whether or not new SRO projects can support a higher inclusionary requirement without becoming infeasible or requiring substantial concessions that are out of line with the community's and City Council's expectations.

Clarifying Calculation of Inclusionary Requirements

Developers often leverage the affordable units required by the IHO to obtain a density bonus under SDBL. According to SDBL, when determining how many affordable units are required to qualify for a certain amount of density bonus, the calculation uses the base density of the project prior to the addition of any bonus units. For example, a site that is allowed a maximum of 100 units under the Zoning Code may seek a 35% density bonus in exchange for providing 11% of the base units as affordable at Very Low Income levels. This would translate to 11 Very Low Income Units in a project with 135 total units. Note that the 11% affordability requirement is applied to the base density of 100 units, rather than the total project density of 135 units.

The same principle has been applied to Pasadena's local IHO requirements, where the inclusionary set-aside percentage has been calculated using a project's base density prior to the addition of density bonus units. This has been done for consistency with SDBL. However, the language used in section 17.42.040 - Inclusionary Unit Requirements states that the inclusionary percentage is applied to the ***total*** number of dwelling units in a project, which could be interpreted to mean the base density plus density bonus units. It is Staff's interpretation that this language was written at a time when SDBL was not frequently used by applicants and therefore it was not anticipated that this language could lead to an inconsistency with SDBL. However, now that SDBL is frequently used in conjunction with the IHO, clarifying the language to differentiate the

calculation methodology for density bonus projects would reduce confusion, improve transparency, and make implementation easier. To clarify the intent of this code section, Staff recommends revising the language as follows (changes shown in strikethrough/underline):

A. Minimum number of units required. A minimum of 20 percent of the total number of dwelling units in a residential project, excluding any bonus units added pursuant to State Law or Chapter 17.43 of this Zoning Code, shall be developed, offered to, and sold or rented to households of very low, low, and moderate-income, at an affordable housing cost, as follows.

1. **Units for sale.** If the project consists of units for sale, a minimum of 20 percent of the ~~total number of units in the project~~ shall be sold to very low, low, or moderate-income households.
2. **Rental units.** If the residential project consists of rental units, a minimum of five percent of the units shall be rented to very low-income households, five percent of the units shall be rented to very low or low-income households, and 10 percent of the units shall be rented to very low, low, or moderate-income households.

This recommended change is included in a more complete version of the recommended amendments included in Attachment C.

Improving the Affordable Housing Concession Menu

As discussed in this report, it cannot be conclusively determined yet whether the Menu is solely responsible for the recent slowing of AHCP applications and lack of new density bonus projects seeking major concessions. However, after a year of implementing the Menu on real world project scenarios, Staff has identified several areas where improvements can be made in order to clarify the intent of the concessions on the Menu, and provide greater certainty for developers as well as the community in terms of what can be expected from projects using the Menu. These issues and recommended changes are described in more detail below, and a complete version of the recommended amendments is included in Attachment C.

Setback Concessions

The current language in the Menu for setback concessions reads as follows:

3. Setbacks. Reduction of side or rear setback requirements by up to 50% from otherwise applicable standards. This concession applies only to setbacks from property lines, and shall not be applicable to setbacks from required gardens or any development standards relating to building separation, including but not limited to light and air separation.

Upon reviewing this concession, some applicants have been unclear as to whether asking for a 50% reduction of side yard setback requirements for two side yards or a side yard and rear yard would count as multiple concessions. Staff's interpretation of this question has focused on the phrase "...side **or** rear setback requirements..." The use of the word "or" indicates that a side yard setback reduction is distinct from a rear yard setback reduction. Therefore, requesting a reduction of a side yard and a rear yard reduction would be considered two concessions.

With respect to requesting multiple side yard setback reductions, it should be noted that virtually all lots have at least two side yards, and the Zoning Code always applies a side yard setback

standard to all side yards of a site. Therefore, reducing the side yard setback requirement for a site would apply to all side yard setbacks for that site, and would thus count as a single concession.

To clarify the intent of this concession based on these interpretations, Staff recommends revising the language as follows (changes shown in strikethrough/underline):

3. Setbacks. Reduction of all side or rear yard setback requirements by up to 50%, or reduction of a rear yard setback requirement by up to 50%, from otherwise applicable standards. This concession applies only to setbacks from property lines, and shall not be applicable to setbacks from required gardens or any development standards relating to building separation, including but not limited to light and air separation. Reduction of any rear yard setback in addition to any side yard setback requirement shall be counted as two concessions.

Loading Concessions

The current language in the Menu for loading concessions reads as follows:

4. Loading. Exemption from any of the requirements set forth in Section 17.46.260 – Number, Location, and Design of Off-Street Loading Spaces.

This concession was originally written intending to be interpreted as broadly as possible in order to allow relief from loading requirements that typically act as barriers to construction feasibility or add significant cost to a project. Since implementation, a review of development projects indicates that the most troublesome loading issues are typically those that require too many loading spaces, spaces that are larger than needed, or height clearances that cause additional excavation. Waiving these standards has a direct relationship to construction feasibility and cost, and developers often have a better understanding of their own project's loading needs. Other standards, however, are more relevant to the preservation of neighborhood character, and therefore waiver of those requirements may result in greater impacts to surrounding neighborhoods. These include requirements for screening and prohibiting loading spaces from being located in required setbacks, or requirements to have adequate ingress and egress and prohibiting backing out onto public streets. These loading standards are codified in the Zoning Code under section 17.46.260 in subsections G through Q, and staff recommends exempting those standards from the loading concession. Additionally, there has been uncertainty as to whether requesting a waiver from multiple loading requirements constitutes one or more concessions. It is staff's interpretation that the language of the concession indicates that multiple loading requirements can be waived under a single concession.

To clarify the intent of this concession, Staff recommends revising the language as follows (changes shown in strikethrough/underline):

4. Loading. Exemption from any of the requirements set forth in Section 17.46.260 – Number, Location, and Design of Off-Street Loading Spaces, subsections A, B, C, D, E, and F only. Any combination of waivers of the requirements in any of these subsections shall be considered one concession.

Height Concession

The current language in the Menu for height concessions includes specific guidance for applying the concession to areas that allow height averaging. This section reads as follows:

a. Height averaging. In areas where height averaging is allowed, the project may utilize either the height increase in this concession, or the applicable height averaging standards, but not both. The additional height allowed under this concession shall apply to the average height, and not the maximum height indicated in the height averaging standards.

The terminology used in this language is inconsistent with the terms in the Zoning Code relating to height standards in the Central District Specific Plan, which is the only area where height averaging is currently allowed in the City. In these areas, the Zoning Code establishes a “Maximum Building Height” and a “Maximum Building Height utilizing height averaging.” The latter term refers to the additional height permitted over no more than 30% of the building footprint on a development parcel, provided that the average height of that footprint does not exceed the otherwise required “Maximum Building Height.” It was the intent of the height concession on the Menu to only apply to the “Maximum Building Height.”

To clarify the intent of this concession, Staff recommends revising the language as follows (changes shown in strikethrough/underline):

a. Height averaging. In areas where height averaging is allowed, the project may utilize either the height increase in this concession, or the applicable height averaging standards, but not both. The additional height allowed under this concession shall apply to the ~~average height~~ “Maximum Building Height”, and not the ~~maximum height indicated in the height averaging standards~~ “Maximum Building Height Utilizing Height Averaging.”

Applying the Height Concession in City of Gardens

When the language for this concession was written, it was primarily intended to address larger multi-family or mixed-use projects where height was regulated by a numeric maximum height measurement. After a year of implementation, it has become clear that the existing language does not adequately address the nuances of height standards for other types of multi-family projects, particularly those included in City of Gardens standards. For example, Zoning Code section 17.22.070.F.2.b regulates building heights on corner lots by limiting certain portions of a building to no more than two stories. This is a case where a height increase of 12 feet could result in unintended consequences by superseding a height regulation that is intended to minimize massing in a very specific way.

Another example of potential conflict with City of Gardens standards is evident in Zoning Code section 17.22.070.F.1.g, which states:

On lots 60 feet in width or greater in the RM-32 district, the maximum height of structures in the front 60 percent of the site is 24 feet to the highest ridgeline. Through the Design Review process, the maximum height in the front 60 percent of the site can be increased to 32 feet (to the highest ridgeline) if the project is not adjacent to an RS or RM-12 district. In the rear 40 percent of the site the maximum height of structures is 36 feet to the highest ridgeline. No maximum top plate is applicable.

As applied to this standard, the height concession could be interpreted to mean that an applicant could either use the concession to increase building height from 24 to 36 feet in the front 60% without requiring Design Review approval, or an applicant could combine the concession with the Design Review process to increase the maximum height of 32 feet by an additional 12 feet for a maximum of 44 feet. Furthermore, the concession could also be used to increase the maximum height in the rear 40% of the site from 36 feet to 44 feet. Given the importance of transitional heights in the City of Gardens standards, particularly for projects adjacent to RS or RM-12

districts, allowing the use of the height concession to exceed these standards without the benefit of Design Review would be more out of character with the scale of these multi-family neighborhoods than can be justified.

In many City of Gardens standards, there are often references to multiple measures of building height, such as a maximum top plate height as well as a maximum ridge line height. It has been unclear to some applicants whether the height concession applies to one of these standards, or both. Staff's interpretation has been that the height concession applies to both standards, since allowing an increase to the top plate height also requires a commensurate increase in the ridge line height in order to accommodate the height increase. In other words, these measurements are tied together, and cannot be practically separated in the application of this concession.

To address all of these issues, Staff recommends amending the height concession language to add the following section specifically addressing applicability to City of Gardens standards (changes shown in strikethrough/underline):

b. City of Gardens. The following provisions shall apply to the use of this concession on City of Gardens Standards:

1. This concession shall not apply to any regulation limiting the number of stories allowed.
2. This concession shall not apply to any regulation limiting the maximum height in the rear 40% of the site.
3. This concession shall not be combined with any provision that allows an increase in height through the Design Review process, nor shall it exempt a project from the requirement to go through the Design Review process in order to allow an increase in height.
4. Where both a maximum top plate height and ridge line height are specified in a standard, this concession shall apply to both maximums, and in those cases shall count as a single concession.

ENVIRONMENTAL DETERMINATION

The Zoning Code Amendments have been assessed in accordance with the criteria contained in the CEQA Guidelines, and qualify for Categorical Exemption pursuant to Section 15305 (Class 5 – Minor Alterations in Land Use Limitations), and there are no features that distinguish this project from others in the exempt class; therefore there are no unusual circumstances. Section 15305 exempts projects that consist of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density. The properties affected by these Zoning Code Amendments have an average slope of less than 20%. Furthermore, the Zoning Code Amendments would result in changes to the way in which the City implements State density bonus law, and would not result in any changes to regulation of land uses or base density standards in the Zoning Code. Therefore, staff recommends that the Planning Commission find that the proposed Zoning Code Amendments are exempt from further review under the provisions of CEQA.

CONCLUSION:

Per the City Council’s direction, staff has presented this one-year review of the implementation of the Zoning Code Amendments adopted in 2019 that increased the inclusionary housing requirements and created an affordable housing concession menu. Based on this review, it appears that the amendments have been working relatively well and as intended. They have not slowed or stopped production of housing in the City, have not caused a sudden influx of more affordable housing concession permit projects with increased height, and in some cases, have been enough of an incentive for projects to choose concessions on the menu rather than seeking additional relief through SDBL. While there may be ways to incentivize certain desirable housing types, such as affordable family-size units and affordable SRO’s, more observation and market/feasibility analysis is needed to assess how that can be accomplished. These changes may also be affected by recently enacted State legislation that provides more generous density bonuses. Finally, based on practical experience working with the amendments over the past year, Staff has identified several clean-up items that would clarify implementation of the Menu and bring it more in line with the intent of the City Council. These cleanup items are presented in this report for consideration and recommended for approval.

Respectfully Submitted,



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Attachments:

- Attachment A: Findings for Zoning Code Amendments
- Attachment B: Existing IHO and Affordable Housing Concession Menu Language
- Attachment C: Proposed IHO and Affordable Housing Concession Menu Language

ATTACHMENT A

FINDINGS FOR ZONING CODE TEXT AMENDMENT

Prior to the approval of a Zoning Code Text Amendment, the following findings must be made:

1. *The proposed amendment is in conformance with the goals, policies and objectives of the General Plan, and other adopted goals and policies of the City.*

The proposed amendment to the Zoning Code is consistent with the goals and policies of the General Plan as follows:

Land Use Element

- Goal 2. Land Use Diversity. A mix of land uses meeting the diverse needs of Pasadena's residents and businesses, fostering improved housing conditions, offering a variety of employment and recreation opportunities, and supporting a healthy population while protecting the environment.
 - Policy 2.1 (Housing Choices). Provide opportunities for a full range of housing types, densities, locations, and affordability levels to address the community's fair share of regional, senior, and workforce housing needs and provide a strong customer base sustaining the economic vitality of Pasadena's commercial land uses. The types, densities, and location of housing shall be determined by the Land Use Diagram and reflect the projected needs specified in the Housing Element.
- Goal 4. Elements Contributing to Urban Form. A safe, well-designed, accessible City with a diversity of uses and forms. These diverse forms include distinct, walkable districts, corridors, and transit and neighborhood villages and cohesive, unique single and multi-family residential neighborhoods and open spaces where people of all ages can live, work, shop, and recreate.
 - Goal 4.11 (Development that is Compatible). Require that development demonstrates a contextual relationship with neighboring structures and sites addressing such elements as building scale, massing, orientation, setbacks, buffering, the arrangement of shared and private open spaces, visibility, privacy, automobile and truck access, impacts of noise and lighting, landscape quality, infrastructure, and aesthetics.
- Goal 21. Desirable Neighborhoods. A City composed of neighborhoods with a variety of housing types that are desirable places to live, contribute to the quality of life, and are well maintained.

- Policy 21.1 (Adequate and Affordable Housing). Provide a variety of housing types (i.e. small subdivisions, row housing, and condominiums), styles, densities, and affordability levels that are accessible to and meet preferences for different neighborhood types (e.g. mixed use pedestrian environments and traditional suburban neighborhoods), physical abilities and income levels, pursuant to the Housing Element.
- Policy 21.2 (Equitable Distribution of Affordable Housing). Providing for the equitable distribution of affordable housing throughout the City, as defined by the Housing Element goals and policies, capitalizing on opportunities for new development allowed by the densities permitted in the Central District and Transit Villages.
- Policy 21.4 (New Residential Development). Attract new residential development that is well-conceived, constructed, and maintained in a variety of types, densities, locations and costs.

Housing Element

- Goal HE-1. Sustainable neighborhoods of quality housing, parks and community services, infrastructure, and other associated services that maintain and enhance neighborhood quality, character, and the health of residents.
 - Policy HE-1.1 (Neighborhood Character). Encourage, foster, and protect a balanced mix, density, and form of residential and mixed-use districts and neighborhoods. Preserve the character, scale, and quality of established residential neighborhoods.
- Goal HE-2. An adequate supply and diversity of quality rental and ownership housing opportunities suited to residents of varying lifestyle needs and income levels.
 - Policy HE-2.1 (Housing Diversity). Facilitate and encourage diversity in types, prices, ownership, and size of single-family homes, apartments, town homes, mixed-uses, transit-oriented developments, and work/live housing, among others.
 - Policy HE-2.4 (Affordable Housing). Facilitate a mix of household income and affordability levels in residential projects and the appropriate dispersal of such units to achieve greater integration of affordable housing throughout the City.
 - Policy HE-2.6 (Housing Incentives). Facilitate the development of affordable housing through regulatory concessions, financial assistance, density

bonuses, the inclusionary housing program, and other City and outside agency programs.

- Policy HE-2.7 (Entitlement Process). Explore continued improvements to the entitlement process to streamline and improve coordination of the processing of development permits, design review, and funding of affordable housing.

The proposed amendments update and clarify the affordable housing concession menu to provide more certainty to developers and community members alike. This is achieved by providing more detailed language that applies to more specific circumstances, thereby reducing the need for interpretation. In general, when regulations are clear and easy to follow, the development process can occur more quickly and with less uncertainty, thereby resulting in time and cost savings that can translate to more affordable housing production. These outcomes are consistent with Housing Element Policies 1.1, 2.1, 2.4, 2.6, and 2.7.

Although some housing development projects continue to be financially feasible today, development trends indicate that as time goes on, land prices and development costs will result in projects relying on greater density bonuses and increasingly larger concessions for height and floor area ratio being required in order to make projects financially feasible. This has resulted in newer projects being out of scale and incompatible with existing neighborhoods. These amendments to the affordable housing concession menu will provide clarity and make it easier to implement an alternative for developers that meets the City's goals of providing additional affordable housing while maintaining compatibility of new projects with existing character. The result would be increasing the production of various types of affordable housing while maintaining compatibility with neighborhood character without limiting the development of market-rate housing overall. Therefore, these amendments would be consistent with Land Use Policies 2.1, 4.11, 21.1, 21.2, and 21.4.

2. *The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.*

The proposed amendments are consistent with numerous policies in the Land Use and Housing Elements of the General Plan. The proposed changes to the affordable housing concession menu would provide better protections for lower-scale residential neighborhoods while creating more certainty for applicants in the implementation of the menu. Therefore, the proposed amendments would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

ATTACHMENT B

EXISTING INCLUSIONARY HOUSING ORDINANCE AND AFFORDABLE HOUSING CONCESSION MENU LANGUAGE

17.42.040 – Inclusionary Unit Requirements

- A. **Minimum number of units required.** A minimum of 20 percent of the total number of dwelling units in a residential project shall be developed, offered to, and sold or rented to households of very low, low, and moderate-income, at an affordable cost, as follows.
1. **Units for sale.** If the project consists of units for sale, a minimum of 20 percent of the total number of units in the project shall be sold to very low, low, or moderate-income households.
 2. **Rental units.** If the residential project consists of rental units, a minimum of five percent of the units shall be rented to very low-income households, five percent of the units shall be rented to very low or low-income households, and 10 percent of the units shall be rented to very low, low, or moderate-income households.
- B. **Rounding of quantities in calculations.** In calculating the required number of inclusionary units, fractional units of 0.75 or above shall be rounded-up to a whole unit if the residential project consists of 10 to 20 units; and fractional units of 0.50 or above shall be rounded-up to a whole unit if the project consists of 21 or more units. Notwithstanding the foregoing, the minimum requirement for any project shall not be less than one unit for very low, low or moderate-income households and one unit for very low or low-income households.

17.43.055 – Affordable Housing Concession Menu

- A. **Eligibility.** An applicant who utilizes the density bonus provisions of this chapter and complies with the following shall not be subject to the application requirements, procedures, or findings set forth in Section 17.43.050 – Concessions and Other Incentives:
1. The project complies with the minimum number of inclusionary units set forth in Section 17.42.040(A) by providing the units on-site; and
 2. The applicant does not request any concession or incentive except for those specified within the affordable housing concession menu in this section.

B. Concession Menu. An eligible applicant shall be entitled to utilize no more than two of the following concessions:

1. **Height.** Increase in maximum allowable height of each building by up to 12 feet beyond otherwise applicable standard over no more than 60% of the proposed footprint of the respective building. This concession shall not be applicable to any other development standards relating to building scale and massing, including but not limited to, encroachment plane and view corridor preservation standards.

a. **Height averaging.** In areas where height averaging is allowed, the project may utilize either the height increase in this concession, or the applicable height averaging standards, but not both. The additional height allowed under this concession shall apply to the average height, and not the maximum height indicated in the height averaging standards.

2. **Floor area ratio.** Increase in maximum allowable floor area ratio by up to 0.5 beyond otherwise applicable standard. This increase shall apply to the floor area ratio itself, and not the resulting allowable gross floor area, as shown in the following examples:

a. **Examples.** For zones with a maximum floor area ratio of 1.5, this concession shall allow a floor area ratio of up to 2.0. For zones with a maximum floor area ratio of up to 2.25, this concession shall allow a floor area ratio of up to 2.75.

3. **Setbacks.** Reduction of side or rear setback requirements by up to 50% from otherwise applicable standards. This concession applies only to setbacks from property lines, and shall not be applicable to setbacks from required gardens or any development standards relating to building separation, including but not limited to light and air separation.

a. **Exceptions.**

1. This concession shall not apply to any setback that is adjacent to any RS Zoning District or a Historic Resource.

2. Setback reductions pursuant to this concession shall not result in the removal of a protected tree, nor shall they exempt a project from meeting the requirements of Chapter 8.52 – City Trees and Tree Protection Ordinance.

4. **Loading.** Exemption from any of the requirements set forth in Section 17.46.260 – Number, Location, and Design of Off-Street Loading Spaces.

5. **Parking.** Reduction of the minimum number of off-street automobile parking space requirements by up to 50% below otherwise applicable standards, provided that the project site is located within the Central District Transit Oriented Development area (Figure 3-5), or any portion of the project site is located within a one-half mile radius of any Metro Gold Line Station, with the exception of the Sierra Madre Villa Station. The 50% reduction shall be in addition to any other applicable parking reduction, including but not limited to those included in Section 17.43.090 – Alternative Parking Standards and Section 17.50.340 – Transit-Oriented Development (TOD).

ATTACHMENT C

PROPOSED INCLUSIONARY HOUSING ORDINANCE AND AFFORDABLE HOUSING CONCESSION MENU LANGUAGE

17.42.040 – Inclusionary Unit Requirements

A. **Minimum number of units required.** A minimum of 20 percent of the total number of dwelling units in a residential project, excluding any bonus units added pursuant to State Law or Chapter 17.43 of this Zoning Code, shall be developed, offered to, and sold or rented to households of very low, low, and moderate-income, at an affordable cost, as follows.

1. **Units for sale.** If the project consists of units for sale, a minimum of 20 percent of the ~~total number of units in the project~~ shall be sold to very low, low, or moderate-income households.
2. **Rental units.** If the residential project consists of rental units, a minimum of five percent of the units shall be rented to very low-income households, five percent of the units shall be rented to very low or low-income households, and 10 percent of the units shall be rented to very low, low, or moderate-income households.

B. **Rounding of quantities in calculations.** In calculating the required number of inclusionary units, fractional units of 0.75 or above shall be rounded-up to a whole unit if the residential project consists of 10 to 20 units; and fractional units of 0.50 or above shall be rounded-up to a whole unit if the project consists of 21 or more units. Notwithstanding the foregoing, the minimum requirement for any project shall not be less than one unit for very low, low or moderate-income households and one unit for very low or low-income households.

17.43.055 – Affordable Housing Concession Menu

A. **Eligibility.** An applicant who utilizes the density bonus provisions of this chapter and complies with the following shall not be subject to the application requirements, procedures, or findings set forth in Section 17.43.050 – Concessions and Other Incentives:

1. The project complies with the minimum number of inclusionary units set forth in Section 17.42.040(A) by providing the units on-site; and

2. The applicant does not request any concession or incentive except for those specified within the affordable housing concession menu in this section.

B. Concession Menu. An eligible applicant shall be entitled to utilize no more than two of the following concessions:

1. **Height.** Increase in maximum allowable height of each building by up to 12 feet beyond otherwise applicable standard over no more than 60% of the proposed footprint of the respective building. This concession shall not be applicable to any other development standards relating to building scale and massing, including but not limited to, encroachment plane and view corridor preservation standards.

- a. **Height averaging.** In areas where height averaging is allowed, the project may utilize either the height increase in this concession, or the applicable height averaging standards, but not both. The additional height allowed under this concession shall apply to the ~~average height~~ “Maximum Building Height”, and not the ~~maximum height indicated in the height averaging standards~~ “Maximum Building Height Utilizing Height Averaging.”

- b. **City of Gardens.** The following provisions shall apply to the use of this concession on City of Gardens Standards:

1. This concession shall not apply to any regulation limiting the number of stories allowed.

2. This concession shall not apply to any regulation limiting the maximum height in the rear 40% of the site.

3. This concession shall not be combined with any provision that allows an increase in height through the Design Review process, nor shall it exempt a project from the requirement to go through the Design Review process in order to allow an increase in height.

4. Where both a maximum top plate height and ridge line height are specified in a standard, this concession shall apply to both maximums, and in those cases shall count as a single concession.

2. **Floor area ratio.** Increase in maximum allowable floor area ratio by up to 0.5 beyond otherwise applicable standard. This increase shall apply to the floor area ratio itself, and not the resulting allowable gross floor area, as shown in the following examples:
 - a. **Examples.** For zones with a maximum floor area ratio of 1.5, this concession shall allow a floor area ratio of up to 2.0. For zones with a maximum floor area ratio of up to 2.25, this concession shall allow a floor area ratio of up to 2.75.

3. **Setbacks.** Reduction of all side or rear yard setback requirements by up to 50%, or reduction of a rear yard setback requirement by up to 50%, from otherwise applicable standards. This concession applies only to setbacks from property lines, and shall not be applicable to setbacks from required gardens or any development standards relating to building separation, including but not limited to light and air separation. Reduction of any rear yard setback in addition to any side yard setback requirement shall be counted as two concessions.
 - a. **Exceptions.**
 1. This concession shall not apply to any setback that is adjacent to any RS Zoning District or a Historic Resource.
 2. Setback reductions pursuant to this concession shall not result in the removal of a protected tree, nor shall they exempt a project from meeting the requirements of Chapter 8.52 – City Trees and Tree Protection Ordinance.

4. **Loading.** Exemption from any of the requirements set forth in Section 17.46.260 – Number, Location, and Design of Off-Street Loading Spaces, subsections A, B, C, D, E, and F only. Any combination of waivers of the requirements in any of these subsections shall be considered one concession.

5. **Parking.** Reduction of the minimum number of off-street automobile parking space requirements by up to 50% below otherwise applicable standards, provided that the project site is located within the Central District Transit Oriented Development area (Figure 3-5), or any portion of the project site is located within a one-half mile radius of any Metro Gold Line Station, with the exception of the

Sierra Madre Villa Station. The 50% reduction shall be in addition to any other applicable parking reduction, including but not limited to those included in Section 17.43.090 – Alternative Parking Standards and Section 17.50.340 – Transit-Oriented Development (TOD).